News from Ed Markey

United States Congress Massachusetts Seventh District

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Markey: SEC and Fed Letters Suggest that Financial Services Consumers are Vulnerable to Privacy Invasions

WASHINGTON, D.C. -- Representative Edward J. Markey (D-MA) today released letters from Federal Reserve Board Chairman Alan Greenspan and SEC Chairman Arthur Levitt which indicate that serious deficiencies appear to exist in the privacy protections afforded to bank customers, investors in stocks and bonds, and purchaser of mutual funds. At the same time, Rep. Markey announced that he had introduced legislation aimed at curbing invasions of consumers right to financial privacy.

"Our nation's financial services regulators are only beginning to come to grips with changes in telecommunications technology that have made it far easier for banks, brokerage firms, mutual funds and other financial services firms to buy and sell personal financial information – often without the consumer's knowledge, consent or approval", said Rep. Markey.

Rep. Markey explained, "Right now the privacy of an individuals' bank or brokerage records or mutual fund purchases is largely left to the discretion of the financial services industry, which appears to have few qualms about using this information for cross-marketing or other commercial purposes."

The SEC and Fed letters came in response to a June 11, 1998 inquiry by Rep. Markey, who is the Ranking Democratic Member of the House Commerce Committee's Subcommittee on Telecommunications, Trade and Consumer Protection and a leading privacy advocate. Earlier this year, Rep. Markey sought to attach a privacy amendment to H.R. 10, the proposed "Financial Services Act" which would restructure the laws governing the financial services industry, but the Republican leadership blocked the amendment from being offered.

In the letters, the SEC and the Fed expressed concerns about current privacy protections, but both regulators indicated that their agencies had little detailed information about the nature and adequacy of industry practices in this area and limited direct authority to address potential problems. SEC Chairman Arthur Levitt wrote that, "I share your concerns that investors' privacy should not be compromised," and that he "believe[s] the NASD should take the steps necessary to increase the security of personal financial information" collected by broker-dealers. At the same time, Levitt indicated that the SEC had no legal authority to require mutual funds or investment advisors to protect their customers privacy. The Levitt letter further indicated that it is continuing to gather information on the use of so-called "data brokers" by mutual funds, investment advisers and securities broker-dealers.

Fed Chairman Alan Greenspan noted that, "Regrettably, the issue of the privacy of personal information to date has been addressed on an ad hoc basis resulting in, at best, uneven privacy protection." While Greenspan indicated that "It is doubtless essential that egregious misuse of information be addressed," he also warned that "we need to be careful in the process not to preempt the development of a broader policy in this sensitive area that balances the consumer's standard of living and the fundamental need of privacy of person." In response to specific questions posed by Rep. Markey, the Fed staff indicated that "the Board has not addressed the issue of a bank's sharing of information with its affiliates regarding transactions with the bank's own customers" and that the Fed had not acted to limit cross-marketing. At the same time, the staff indicated that in connection with the pending Travelers-Citicorp merger it "has requested information from the applicant regarding its policies for keeping customer information confidential, sharing such information with affiliates, and seeking customer consent for information sharing."

In response to the gaps in consumer financial privacy outlined in the regulator's letters, Rep. Markey announced today that he has introduced two bills aimed at protect the privacy of securities investors and bank customers. The bills, H.R. 4479 the "Securities Investors Privacy Enhancement Act of 1998" and H.R. 4478 the "Depository Institution Customers Financial Privacy Enhancement Act of 1998" would give investors in stocks and bonds, mutual funds, clients of investment advisors, as well as depository institution customers, and other consumers of other affiliates of financial services companies the privacy protections they deserve. The bills would establish under federal law the principle that financial services institutions generally must provide notice to the consumer of when information is being gathered about them, disclosure whenever the institution intends to offer such information to any other person, and a requirement for the express written consent of the consumer if the information is to be transferred or sold to any other person.

Rep. Markey concluded, "Consumers should have the right to know whenever personal information is being collected about them, notice whenever any personal information collected is intended by the recipient for reuse, sale, or cross-marketing purposes, and the right to exercise choice – to say "No" – and to curtail or prohibit the unauthorized collection, reuse, or sale of their personal financial information. The SEC and Fed letters strongly suggest to me that legislative action will be needed to secure consumers these rights. The legislation I have introduced would respond to the current gaps in the law by providing financial services consumers with privacy rights guaranteed under federal law."

Copies of Rep. Markey's correspondence with the SEC and the Federal Reserve can be obtained Rep. Markey's office, along with copies of Rep. Markey's financial privacy legislation, H.R. 4478 and H.R. 4479.H.H.. Electronic copies of the correspondence and related legislation should also be available shortly at Rep. Markey's website (www.house.gov/markey).

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